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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/678,776	10/02/2003	Xian Chang Liu	4115DL	3407

7590 05/31/2005

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EXAMINER

COLE, LAURA C

ART UNIT PAPER NUMBER

1744

DATE MAILED: 05/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/678,776

Applicant(s)

LIU, XIAN CHANG

Examiner

Laura C. Cole

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claims 1-4 and 6-7 are rejected under 35 U.S.C. 102(e) as being anticipated by Michelson et al., US 2004/0134803.

Michelson et al. disclose the claimed invention including a dustpan comprising a housing (19) and a casing (18) that is pivotally attached to the housing (paragraphs 31 and 33) and rotatable relative to the housing between an upward folding position and a downward working position (paragraph 48; see upward position in Figure 1 and working position in Figure 3), the casing including a chamber formed therein (29) defined by an upper panel (27), a bottom panel (21), and two side panels (23-1 and 23-2 or both are "23"), and a front opening formed therein (at 31), and including at least one projection extending forwardly from the upper panel of the casing and extended into the front opening of the casing (unlabeled, see projections formed on 27 in Figure 3). The housing includes two side walls (35-1 and 35-2 or both are "35"), and the casing is pivotally secured between the side walls of the housing (paragraphs 33-34; Figure 3). The side panels of the casing (23-1 and 23-2) are pivotally secured to the side walls of

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the housing (35-1 and 35-2) with pivot axles (41; paragraph 34). The housing includes a space formed therein defined by said side walls (35-1 and 35-2) to partially receive the casing (unlabeled, see Figures 2-3). There is also a broom (15) having a brush member (85) and a hand grip (115), the housing including a handle (20) and a catch (76) attached to the handle..

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
  2. Ascertaining the differences between the prior art and the claims at issue.
  3. Resolving the level of ordinary skill in the pertinent art.
  4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
2. Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jerstroem et al., USPN 6,643,891 in view of Kelley, USPN 1,315,310.

Jerstroem et al. disclose the claimed invention including a housing (55) and a casing (21) that is pivotally attached to the housing (see Figures 10-12; Abstract) and rotatable relative to the housing between an upward folding position and a downward working position (Figures 10-12; see upward position in Figure 10 and working position

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in Figure 12), the casing including a chamber formed therein (29) defined by an upper panel (26), a bottom panel (30), and two side panels (24, 25), and a front opening formed therein (at 29). Also, Jerstroem et al. includes a housing having two side walls (both labeled "56") and the casing is pivotally secured between the side walls of the housing (Figures 3 and 5; Column 3 Line 30 to Column 4 Line 19). The side panels of the casing are pivotally secured to the side walls of the housing with pivot axles (67). The housing includes a space formed therein defined by the side walls to receive the casing (see Figure 3). There is a broom (70) having a brush member (80 or 82) and the housing includes a front wall having a recess formed therein for receiving the brush member of the broom (Column 4 Lines 51-56). The broom has a hand grip (73) and the housing includes a handle (51) and a catch (53) attached to the handle (see Figure 9) for retaining the hand grip of the broom to the handle of the housing (see Figure 2). Jerstroem et al. does not include at least one projection extending forwardly from the upper panel of the casing and extended into the front opening of the casing.

Kelley discloses a dustpan having a casing including a chamber (unlabeled, see Figures) that is defined by an upper panel (8), a bottom panel (5), and two side panels (6), and including a front opening formed therein (unlabeled, see Figures), and at least one projection (13) extending forwardly from the upper panel of the casing and extending into the front opening of the casing (see Figures), wherein the projections assist cleaning and removal of hair from a broom or brush (Page 1 Lines 55-64).

It would have been obvious for one of ordinary skill in the art to modify the upper panel of Jerstroem et al. to include forwardly extended projections, as Kelley teaches, in order to remove hair or debris from brooms or brushes.

***Conclusion***

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

USPN 445,278 to Chubb and USPN 248,344 to Perry also provide a teaching of having projections extending forwardly from an upper panel of a dustpan in order to clean a broom or brush.

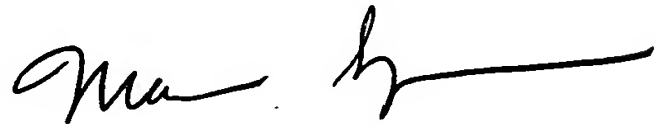
4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura C. Cole whose telephone number is (571) 272-1272. The examiner can normally be reached on Monday-Thursday, 7:30am - 5pm, alternating Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Kim can be reached on (571) 272-1142. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*LCC*  
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24 May 2005

  
MARK SPISICH  
PRIMARY EXAMINER  
GROUP 3400  
1200